UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,662	12/08/2000	Bryan J. Moles	SAMS01-00148	4632

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Dallas, TX 75380

EXAMINER
LE, DANH C

ART UNIT	PAPER NUMBER
2683	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/733,662	MOLES ET AL.
	Examiner	Art Unit	
	DANH C LE	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-11 and 18-23* is/are rejected.

7)☒ Claim(s) *5,12,17 and 24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. **Claims 1-3, 6-8, 11, 13-15, 18-20, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang (2001/0049263) in view of Vogel (2002/0070753).**

      As to claim 1, Zhang inherently teaches for use in a wireless network (figure 1) comprising a plurality of base stations (cellular network inherently comprising a plurality of base station), each of said base stations capable of communicating with a plurality of mobile stations (110), a mobile station diagnostic testing system capable of testing the operation of a first one of said plurality of mobile stations comprising:

      a diagnostics controller coupled to said database capable of receiving a notification indicating that a fault has occurred in said first mobile station and further . capable, in response to receipt of said notification, of retrieving said mobile station diagnostic testing file from said database and transmitting said mobile station diagnostic testing (configuration setting)file to said first mobile station (paragraph 13-17).

      Zhang fails to teach a database capable of storing a mobile station diagnostic testing file comprising a mobile station diagnostic testing program in interpreted byte-code format and the receipt of said mobile station diagnostic testing file causes said mobile station to execute said mobile station diagnostic testing program in

said mobile station diagnostic testing file. Vogel teaches a database capable of storing

a station diagnostic testing file comprising station diagnostic testing program in

interpreted byte-code format and the receipt of said station diagnostic testing file causes

said mobile station to execute said mobile station diagnostic testing program in said

station diagnostic testing file (paragraph 0029 and 35-42). Therefore, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to

provide the teaching of Vogel into the system of Zhang in order to enhance system

performance of the automatic/system configuration monitoring and error tracking system

and software upgrade tool kit in which debugs the problem on a mobile station.

As to claim 2, Zhang teaches the mobile station diagnostic testing system

as set forth in claim 1 wherein said mobile station diagnostic testing file further

comprises diagnostics data used to test said first mobile station (paragraph 24).

As to claim 3, Zhang teaches the mobile station diagnostic testing system

as set forth in claim 1 wherein said mobile station diagnostic testing file is transmitted to

said mobile station using TCP/IP packets (paragraph 25).

As to claim 6, the claim is an apparatus claim of claim 1; therefore, the claim

is interpreted and rejected as set forth as claim 1.

As to claim 7, Zhang teaches the mobile station as set forth in claim 6

wherein said mobile station diagnostic testing file further comprises diagnostic testing

data and wherein said main controller uses said diagnostic testing data to test said

mobile station (paragraph 31-34).

As to claim 8, Zhang teaches the mobile station as set forth in claim 6

wherein said mobile station diagnostic testing file is transmitted to said mobile station in said forward channel messages using TCP/IP packets (paragraph 25).

As to claim 11, Zhang teaches the mobile station as set forth in claim 6 wherein said main controller is capable of transmitting to said wireless network a reverse channel notification message notifying said wireless network that a fault has been detected in said mobile station, wherein receipt of said reverse channel notification message is capable of causing said wireless network to transmit said mobile station diagnostic testing file to said mobile station (paragraph 13-17).

As to claim 13, the claim is a method claim of claim 1; therefore, the claim is interpreter and rejected as set forth as claim 1.

As to claim 14, Zhang teaches the method as set forth in claim 13 wherein the mobile station diagnostic testing file further comprises diagnostics data used to test the first mobile station (paragraph 13-17).

As to claim 15, Zhang teaches the method as set forth in claim 13 wherein the step of transmitting comprises the sub-step of transmitting the mobile station diagnostic testing file to the mobile station using TCP/IP packets (paragraph 25).

As to claim 18, Zhang teaches for use in a mobile station capable of . communicating with a wireless network (figure 1, 13-17), a method of performing an over-the-air (OTA) diagnostic testing of the mobile station from the wireless network comprising the steps of:

receiving and demodulating forward channel messages from the wireless network;

extracting from the demodulated forward channel messages a mobile

station diagnostic testing (configuration setting).

Zhang fails to teach diagnostic testing file containing a mobile station diagnostic

testing program in interpreted byte-code format and interpreting and executing the

mobile station diagnostic testing program.   Vogel teaches diagnostic testing file

containing a station diagnostic testing program in interpreted byte-code format and

interpreting and executing the station diagnostic testing program (paragraph 0029,

0035-0042).   Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to provide the teaching of Vogel into the system of

Zhang in order to enhance system performance of the automatic/system configuration

monitoring and error tracking system and software upgrade tool kit in which debugs the

problem on a mobile station.

As to claim 19, Zhang teaches the method as set forth in claim 18 wherein the

mobile station diagnostic testing file further comprises diagnostic testing data used to

test the mobile station (paragraph 13-17).

As to claim 20, Zhang teaches the method as set forth in claim 18 wherein the

forward channel messages comprise TCP/IP packets (paragraph 25).

As to claim 23, Zhang teaches the method as set forth in claim 18 further comprising the

steps of: transmitting to the wireless network a reverse channel notification message

notifying the wireless network that a fault has been detected in the mobile station; and in

response to receipt of the reverse channel notification message transmitting the mobile

station diagnostic testing file to the mobile station from the wireless network (paragraph

13-17).

2. **Claims 4, 9, 16, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable**

   over Zhang and Vogel in view of Smith (US 6,333,973).

As to claim 4, Zhang teaches the mobile station set forth in claim 6 wherein said

mobile station diagnostic testing file is transmitted to said mobile station in said forward

channel messages. Zhang fails to teach the forward channel messages using at least

one short messaging service (SMS) message. Smith teaches the forward channel

messages using at least one short messaging service (SMS) message (col.1, lines 41-

47). Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to provide the teaching of Smith into the system of Zhang and

Vogel in order to enhance system performance of the automatic/system configuration

monitoring and error tracking system and software upgrade tool kit which transmits

different types of messages.

As to claims 9, 16 and 21, the limitation of the claims are the same limitation of

claim 4; therefore, the claims are interpreted and rejected as set forth as in claim 4;

3. **Claims 10, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

   Zhang (2001/0049263) and of Vogel (2002/0070753) in view of Ying (US

   6,757,521).

As to claim 10, The combination of Yhang and Vogel fails to further teaches the

mobile station diagnostic testing program interacting with a user of said first mobile

station during said OTA diagnostic testing process as set forth in claim 6, comprises

using a graphical user interface (GUI) program (figure 12, 422). Ying further teaches the mobile station diagnostic testing program interacting with a user of said first mobile station during said OTA diagnostic testing process as set forth in claim 6, comprises using a graphical user interface (GUI) program (figure 12, 422). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Ying into the system of Zhang and Vogel in order to enhance system performance of the automatic/system configuration monitoring and error tracking system and software upgrade tool kit which display using graphical user interface.

As to claim 22, the limitation of the claim is the same limitation of claim 10; therefore, the claim is interpreted and rejected as set forth as claim 10.

Allowable Subject Matter

Claims 5, 12, 17 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 5, 12, 17 and 24, the teaching of above prior arts either alone ar in combination fails to teach the mobile station diagnostic testing system as set forth Claim wherein said diagnostics controller capable determining from said notification model type said first mobile station and, in response said determination, selecting said mobile station diagnostic testing program according to said model type.

Conclusion

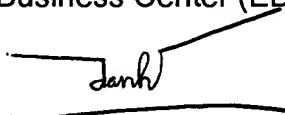The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Click, Jr et al (US 2002/0100018) teaches method and apparatus for debugging optimized code.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 17, 2005

DANH CONG LE
PATENT EXAMINER